

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 12.7.502, 12.7.503, 12.7.504,)
and 12.7.505 pertaining to fish)
importation)

TO: All Concerned Persons

1. On June 12, 2014, the Department of Fish, Wildlife and Parks (department) published MAR Notice No. 12-414 pertaining to the proposed amendment of the above-stated rules at page 1158 of the 2014 Montana Administrative Register, Issue Number 11.

2. The department has amended ARM 12.7.502, 12.7.503, 12.7.504, and 12.7.505 as proposed.

3. The department has thoroughly considered the comments received, and the department's responses are as follows:

Comment 1: Five comments support the proposed rule. Several comments specifically stated support for the reclassification of pathogens, the tiered approach to classification, and the addition of using surrogate species for pathogen testing benefiting the conservation of native species.

Response 1: The department appreciates the participation and support of this rulemaking process.

Comment 2: One comment suggested replacing the term "fishery" and "fisheries" with "fish populations." The comment stated the term "fishery" implies a fish population that is fished or exists in a hatchery and in order for the rule to cover fish species not fished for, including most non-game native fish species it would be more accurate to use "fish populations."

Response 2: The department adopted the rule with the term "fishery" and "fisheries" in order to remain consistent with the language in statute and the "Montana Statewide Fisheries Management Plan." The department will use the rule in order to protect all state fish populations.

Comment 3: One comment suggested details regarding the review that occurs on import requests be added to the rule.

Response 3: The rule includes a description on what information will be gathered and used to make determinations on importation requests. The specifics on how this review will occur will be documented in department policy.

Comment 4: One comment stated that the requirements for American Fisheries Society certified inspectors should remain in the rule and that the director or any other department employee does not have the background to evaluate whether or not a person is qualified to collect fish health samples and conduct lab testing.

Response 4: The department has authorized the use of non-certified inspectors for several years. The department believes that the Fish Health Coordinator has the background and is more than qualified to make an evaluation on whether or not a person is qualified to collect fish health samples.

Comment 5: One comment questioned whether the rules may have been updated at this time for a single issue, rather than a true need to reclassify pathogens.

Response 5: After review of the rules the department determined that they needed to be updated with current practices and current scientific knowledge. The rules were revised to increase their effectiveness statewide for all fish importations.

/s/ M. Jeff Hagener

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Director

Department of Fish, Wildlife and Parks

/s/ Zach Zipfel

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Rule Reviewer

Certified to the Secretary of State August 11, 2014.